

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

FILED
HARRISBURG

DEC 01 2006

VERNON BARNES,

Defendant,

MARY E. D'ANDREA, CLERK
Per [Signature]
DEPUTY CLERK

V.

1 Cr. 01-00172-1 (YK)

UNITED STATES OF AMERICA,

Respondent.

Declaration of Vernon Barnes

I, Vernon Barnes, hereby declare under penalty of perjury as follows:

1. I am the defendant in the above-captioned action.
2. I submit this declaration in support of my motion seeking a Court Order directing my former Attorney L. Rex Bickley, 114 South Street, Harrisburg, Pa 17101, (717) 234-0577, to provide me with the partial case file for my criminal case.
3. On December 4, 2003, my direct appeal was denied by the appellate court which affirmed the judgment and conviction in full in my case. At that point, the one-year statutory time limit provision began to run for filing a habeas corpus motion pursuant to 28 U.S.C. § 2255, making my motion due to be filed on or before December 4, 2004.
4. I immediately wrote Attorney Bickley on October 18, 2004, when I learned of the time limit provision. For the most

part I have a majority of the paperwork on the case but needed documents filed by counsel, the government, and correspondence between Attorney Bickley and myself. I advised him of this narrow request for documents. See Barnes' letter, dated October 18, 2004, attached as an exhibit.

5. On October 19, 2004, Attorney Bickley responded to my letter, writing: I will have to retrieve the information and I will have to duplicate it. Because I am no longer appointed to represent you, I will need to be paid for my secretarial time, photocopying and postage. I will need \$350 for this purpose. I will reimburse you if there are any unused funds. (See Bickley letter attached as an exhibit).

6. Attormey Bickley knew very well that it was impossible for me to send him a retainer of \$350 for the processing of my request for the records as I am indigent. In fact, he was a court-appointed lawyer because of my financial poverty which prevented me from hiring a private legal representative. The document request in my letter would not have amounted to more than a hundred pages. For him to quote such a ridiculous price to process my request was the equivalent of extortion. Considering the time retrain in my case which was about to run out and foreclose my right forever to file a habeas corpus motion.

7. Because he did not send me the portion of the case file, the habeas corpus motion could not be filed, and my right to do so vanished forever.

8. Recently the United States Supreme Court heard a case on oral argument which deals with sentencing issues announced in Apprendi, FanFan, and Blakely. If the High Court rules that these case apply retroactively to cases on collateral review, my cahnce to file a § 2255 motion will be available again. In this case, the time limit provision of one-year will begin to run from the date the Supreme Court rules in favor of retroactivity.

9. Since I am still indigent, I ask this Court to direct Attorney Bickley to send me the necessary paperwork. I can have the postage sent to him at best. I cannot figure out why he must keep the paperwork anyway.

Wherefore, I doclare under penalty of perjury that the foregoing is true and correct.

November 27, 2006

Respectfully submitted,

Vernon Barnes
Vernon Barnes, Pro-se
34393-037
USP Allenwood
Box 3000
White Deer, Pa 17887

CERTIFICATE OF SERVICE

I, Vernon Barnes, hereby declare under penalty of perjury that a copy of the enclosed motion and declaration was sent, by first class mail, to:

L. Rex Bickley, Esq.
121 South Street
Harrisburg, PA 17101

On this 28th day of November, 2006.

respectfully submitted,

Vernon Barnes
Vernon Barnes, Pro-se

*LAW OFFICES
L. REX BICKLEY
114 SOUTH STREET
HARRISBURG, PENNSYLVANIA 17101
(717) 234-0577*

October 19, 2004

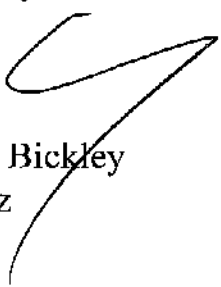
Vernon Barnes, #34393-037
USP Allenwood
PO Box 3000
White Deer, PA 17887

Dear Mr. Barnes:

I will have to retrieve the information and I will have to duplicate it. Because I am no longer appointed to represent you I will need to be paid for my secretarial time, photocopying and postage. I will need \$350 for this purpose. I will reimburse you if there are any unused funds.

If you have any questions, please advise.

Sincerely,


L. Rex Bickley
LRB/sz

Vernon Barnes #34393-037
USP Allenwood
PO Box 3000
White Deer, PA 17887

October 18, 2004

L. Rex Bickley, Esq.
121 South St.
Harrisburg, PA 17101

RE: 2255 Motion Criminal Docket Case #
1:CR-01-00172-01

Mr. Bickley

I need a copy of my complete case file
that you have, so I can do my 2255. I need
all the letters you wrote me, the U.S. Attorneys
Office, all Motions filed by you and the
U.S. Attorney's Office, all letters I wrote

you, the PSI, the PSI objections I ~~made~~ made to you and the PSI objections you made to the Probation Dept. to the PSI, etc...

I have copies of only the Appeal Brief, Appeal Appendix, Brief Of Appellee, Opinion Of The Court. A ~~lot~~ lot of my paper work got through away when I went to lock up at Schuylkill before they shipped me here to USP Allenwood.

When this information is sent, send the Goldenrod color form back with it so I can get this information in to do my 2255.

My year to do my 2255 is up
2

on December 24, 2004. I still got to do some
more research so I need this paperwork as soon
as possible.

Thank you.

Sincerely
Vernon Barnes

Vernon Barnes # 34393-037
USP Allenwood
PO Box 3000
White Deer, PA 17887

U.S. DEPARTMENT OF JUSTICE

AUTHORIZATION TO RECEIVE PACKAGE
OR PROPERTY

Federal Bureau of Prisons

Name and Address of Person Sending Package			EXPIRATION DATE	
L. Rex Bickley, Esquire			12-18-04	
(Name)				
121 South Street			This Authorization is Not Valid After The Date Shown.	
(Address)			Enter Inmate Name, Register No., and Institution Address Here:	
			BARNES, Vernon, Reg. No. 34393-03/	
			USP Allenwood--Unit 111-A	
Harrisburg			Post Office Box 3000	
(City)	Pennsylvania	17101	White Bear, Pennsylvania	
	(State)	(Zip Code)	17887	

THE NAMED INMATE IS AUTHORIZED TO RECEIVE (specify below):

You are authorized to send the following personal property. PLEASE NOTE: Including unauthorized materials in the package will result in the entire package being returned undelivered.

QUANTITY	ITEM AND DESCRIPTION (INCLUDED STATED VALUE)	DISPOSITION
1 Box	Legal Work	

SPECIAL INSTRUCTIONS: The inmate will mail the pink and goldenrod copy to addressee. The addressee may retain the pink copy but must include the GOLDENROD IN THE PACKAGE. The material must also be received prior to the Expiration Date shown above.

DISPOSITION: S = Storage; D = Donated; K = Keep in Possession; M = Mail; C = Contraband

ENTER SIGNATURE, TITLE AND DATE OF APPROVING OFFICIAL - APPROVING OFFICIAL ALSO ENTERS EXPIRATION DATE, above.

(Signature and Title)

(Date Approved)

INSPECTION AND RECEIPT

Completed by Inspecting Staff

Status/Condition of Property Received:

Inspected and cleared for issue: _____

(Staff Signature) (Date)

(Inmate Signature Upon Receipt) (Date)

The white, green and canary copy remain together until fully completed.
The pink and goldenrod are forwarded to the addressee by the inmate.

Final Filing: White - Central File
Green - R&D Property File
Canary - Inmate
Pink - Addressee to keep
Goldenrod - Addressee place in package

